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**DEVELOPMENT SERVICES MEMORANDUM**

DATE: June 8, 2016

TO: Chairman Bailey and Members of the Zoning Board of Appeals

CC: Eric Slagle, Director of Development Services  
Shaun Shanahan, Building Commissioner  
Judy Tymon, Senior Planner  
Joseph Giniewicz, Associate Planner

FROM: Christine McCall, Assistant Planner

RE: 374-386 Chelmsford Street

**PROJECT SUMMARY**

Geoff Schembechler is seeking Special Permit and Variance approval at 374-386 Chelmsford Street. The proposal is to expand and upgrade the existing Domino's Pizza to create additional parking spaces and a new drive-through window.

The proposed project is located in the Regional Retail (RR) zoning district and requires Special Permit approval from the Zoning Board under Art. 12: Table of Uses, and Variance approval from the Zoning Board under Section 6.1.4 of the Lowell Zoning Ordinance.

**DECISION CRITERIA (Special Permit)**

The Board shall grant a Special Permit only upon its written determination that the adverse affects of the proposed use and structure do not outweigh its beneficial impacts to the city or the neighborhood, in view of the particular characteristics of the site, and the proposal in relation to that site, and find that the following criteria have been adequately addressed:

1. Social, economic, or community needs which are served by the proposal;
2. Traffic flow and safety, including parking and loading;
3. Adequacy of utilities and other public services;
4. Neighborhood Character and social structures;
5. Impacts on the natural environment; and
6. Potential fiscal impact, including impact on city services, tax base, and employment.

**DECISION CRITERIA & PREREQUISITES (Variance)**

The Lowell Zoning Ordinance and Massachusetts General Law (Ch. 40A, Sec. 10) state that the Zoning Board must find the following zoning prerequisites have been met before a variance may be granted. Specifically, section 11.2.3 states that, "the Board of Appeals is authorized to grant a variance from zoning ordinances only if each of the following jurisdictional conditions" exist:

1. Special hardship “owning to circumstances relating to the soil conditions shape or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district.”
2. If “relief can be granted without substantial detriment to the public good.”
3. Relief requested can be granted “without nullifying or substantially derogating from the intent of the zoning.”

### **COMMENTARY**

The applicant received Site Plan Review approval, of the revised plan dated April 27, 2016, from the Planning Board on Monday, June 6<sup>th</sup> with the following conditions:

1. Sidewalk on Chelmsford St shall be constructed to City Standards along the applicant’s frontage
2. A Maintenance plan shall be submitted and approved to the City Engineer
3. Applicant shall work with DPD to finalize a landscape and dumpster plan
4. Applicant shall utilize traffic plan indicating two way traffic on the south side curb opening and exit only on the north side opening
5. Applicant shall record easement presented to the City regarding the adjacent residential property located at 368 Chelmsford St.

Based on a review of the submitted materials, we offer the following to the Board for consideration. ***If the Board finds that the applicant has met the requirements for granting a Variance***, the following comments may either be clarified during the public hearing or be adopted as conditions in part or in whole to the approved relief. As always the Board may wish to add any additional conditions based on their review.

### **GENERAL COMMENTS**

1. No Work shall commence until a Decision Letter has been recorded at the Registry of Deeds, Middlesex North and the recording information has been submitted to the Lowell Division of Development Services (DDS) office.
2. The Lowell Zoning Board and/or the authorized representative(s) reserve the right to access the property at any time for the purpose of inspecting the work covered by this proposal.
3. Documents approved by the Board and/or the agent (s) thereof shall be made a part of all construction specifications.
4. Any approval and conditions of said approval shall apply to any successor in control or successor in interest of the property described in the Variance Application and accompanying plans submitted to the Lowell Zoning Board of Appeals.

### **DEVELOPMENT SERVICES**

5. The applicant proposes to expand and upgrade the existing Domino’s Pizza to create additional parking spaces and a new drive-through window. The applicant proposes to join a vacant lot (374 Chelmsford) with the existing business located at 386 Chelmsford Street.
6. The applicant also proposes to construct an addition that increases the total square footage of the business to approximately 2,300 sq ft. The threshold to be considered a ‘carry-out’ restaurant is 1,500 sq ft.
7. The existing site has 6 parking spaces. The Site Plan dated 4/27/16, proposes 36 parking spaces. With the proposed addition, the required amount of parking spaces is 48.

- The Site Plan dated 4/27/16, provides two parking spaces in front of the proposed dumpster area. The Board may wish to ask the applicant to remove those two spaces to ensure adequate access to the dumpster facilities.
  - The Site Plan dated 4/27/16 proves 4 parking spaces that are for employees only. In addition, this area could be used as a loading zone.
  - The Site Plan dated 4/27/16 provides 36 parking spaces. Considering all of the above, there will be 30 spaces available for customer parking. Since 48 customer parking spaces are required for a restaurant of this size, the applicant will need relief for at least 20 parking spaces.
  - Despite requiring relief for 20 parking spaces, it is the opinion of this office that the applicant is still providing sufficient customer parking for their business.
8. The proposed expansion and addition keeps in character with the existing neighborhood. The subject property is located in the Regional Retail (RR) Zoning District. There are numerous other drive-through businesses in this corridor.
  9. The Site Plan dated 4/27/16 provides sufficient room for a minimum of 10 cars to queue and also provides a driveway aisle.
  10. The Board may wish to ask the applicant to discuss their plans for any new signage. If the applicant intends to install additional illuminated signs, any sign exceeding 30 sq ft, or a sign exceeding 20ft in height, the applicant will be required to request a Special Permit from the ZBA.
  11. The existing business on 386 Chelmsford Street currently shares a driveway with an abutting apartment building (368 Chelmsford) with their sole access through the Domino's parking lot.
    - Please see attachment for the Law Department's opinion. In addition, the Planning Board issued a condition that requires the applicant to record an easement regarding the adjacent residential property.
  12. The Site Plan dated 4/27/16 was approved by the Planning Board. This Site plan has two-way traffic on the southerly side, and a one way exit on the northerly side. In addition, the northerly side has a 20 foot painted fire lane.

#### **Lowell Fire Department**

The revised Site Plan, dated 4/27/16, will satisfy the Fire Department's requirements.

#### **Transportation**

The driveway should be one-way in a counter-clockwise direction just like the neighboring fast-food restaurants. The reason is to have fewer conflicts with the neighboring access points and less opportunities for conflicts with the flow of traffic. Access management along Chelmsford Street is necessary for congestion and safety reasons.